



Accommodating Sikhs in the Workplace: An Employer's Guide



INTRODUCTION



It is no secret that developing and retaining a diverse workforce that is reflective of the customers you serve promotes innovation, perspective and performance by employees while ultimately increasing profits. Achieving this success, however, requires an understanding of how to effectively include and utilize employees of different backgrounds within your organizational structure. The Sikh Coalition—the nation’s largest Sikh civil rights organization, which focuses on combating discrimination against Sikhs in the United States—has created this Sikhism Employer’s Guide in order to help public and private sector employers gain awareness and welcome diverse talent to their teams. This guide serves to educate employers about employees of the Sikh faith, including religiously mandated practices, identifiable and visible articles of faith, applicable legal standards, and challenges Sikh or other minority employees may face in the workplace. Most importantly, this information is designed to help employers implement legally-grounded and culturally-competent practices that counter workplace discrimination and lead to a more welcoming and inclusive environment for all.



The Sikh Coalition

www.sikhcoalition.org



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Photo credit: Russell Brammer for the Sikh Coalition

FAST FACTS ON THE SIKH FAITH AND COMMUNITY



5th
largest

Sikhism, also known as Sikhi, is the **fifth-largest** world religion.

**Love,
Service
& Justice**

are core Sikh values.



The Sikh identity includes **five articles of faith**.

The most visible aspects of the Sikh identity include the unshorn hair and the turban.

25 million

There are more than **25 million** Sikhs worldwide.



Guru Nanak was born in **Punjab**, a region in South Asia that spans modern-day Pakistan and northwest India. Most of the world's Sikhs today continue to live in Punjab.

1469 AD

The founder of Sikhi, **Guru Nanak**, was born in 1469 AD.



Many wrongly describe Sikhism as a blend of Islam and Hinduism – Sikhi is an **independent religion**, with its own prophets, scriptures, practices, ceremonies, and beliefs.



500,000

Credible estimates on the Sikh American population range from about 300,000 to 700,000. The number most commonly cited is **500,000**.

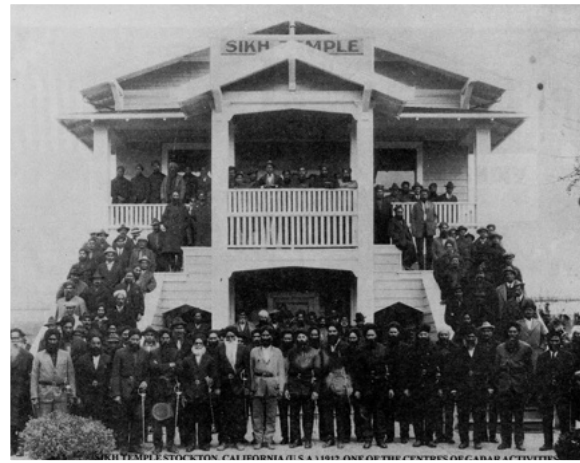
SIKHS IN AMERICA

Most of the world's estimated 25 million Sikhs remain concentrated in India, with the vast majority living in the Indian state of Punjab. There is also, however, a robustly growing diaspora all across the United States, with the largest communities concentrated in California, New York, and New Jersey. There are nearly 300 Sikh houses of worship (gurdwaras) in the United States, and an estimated 500,000 Sikhs nationwide.

From the time of their arrival in the late 1800s, Sikh men and women have made notable contributions to American society. Early immigrants settled on the Western frontier, where they played a major role in building America's railroads. Sikh Americans such as Bhagat Singh Thind served in the U.S. military during the world wars, and the first Asian-American congressman, Dalip Singh Saund, was a Sikh elected to office in 1957.

Additionally, Sikh Americans continue to create incredible innovations that contribute to the U.S. economy. For example, the inventor of fiber optics was a Sikh American, as is the largest peach grower in the United States. Sikhs help make up the backbone of America as farmers, truck and taxi drivers, engineers, and construction workers. Sikh Americans serve in all walks of life, from teachers and pilots to musicians and doctors, and from civil servants and social activists to philanthropists and movie actors. In addition, Sikhs now serve in a variety of law enforcement agencies and military branches while maintaining their articles of faith including unshorn hair, beards, and turbans.

Despite their vast contributions to society, Sikhs continue to experience immense discrimination and hate-based violence in modern America. The lack of cultural and religious awareness of many Americans, coupled with Sikhs' distinct visible religious identity, has led Sikh Americans to be uniquely vulnerable to workplace discrimination since their arrival in the United States more than a century ago. Workplace discrimination against Sikhs has manifested as failure to hire, failure to promote or advance internally, wage disparity, discipline, termination, segregation, harassment or hostile work environment, and failure to accommodate the Sikh articles of faith. These acts of discrimination have served as a barrier to equal opportunity for many Sikhs in America.



Top: First Sikh gurdwara in the United States – Stockton Gurdwara in 1912 (Stockton, Calif)

Middle: Dalip Singh Saund. Oil on canvas, Jon R. Friedman, 2007 Collection of the U.S. House of Representatives

Bottom: Corporal Simran Preet Lamba at his graduation in 2010. One of an increasing number of turbaned Sikhs who have received an exemption to serve in the U.S. Military. (Photo credit: Denise McGill on behalf of the Sikh Coalition)



SIKHISM AND THE ARTICLES OF FAITH

The founder of the Sikh faith, Guru Nanak, was born in 1469 in Punjab, a region in South Asia that spans modern-day Pakistan and northwest India. Guru Nanak's teachings, as well as the teachings of nine successive Gurus, form the basis of the Sikh religion. The Sikh religion is monotheistic, believing in one God that is all loving, all pervading and eternal. This God of love is obtained through grace and sought by service to humankind. Guru Nanak rejected the Indian caste system and declared all human beings as equal. He taught that God was universal to all--not limited to any religion, nation, race, color, or gender. While Sikhi can be practiced anywhere and requires no intermediary or clergy between the individual and their relationship with God, the majority of Sikhs in America come together communally for services at a gurdwara, or house of worship, to pray together.

Since the formative moments of the tradition, Sikhs have maintained a physical identity that makes them stand out in public, even in the context of South Asia. This identity includes five articles of faith--kesh (unshorn hair), kanga (small comb), kara (steel bracelet), kirpan (religious article resembling a knife), and kachera (soldier-shorts)--and distinguishes any woman or man who has formally committed to the values of the Sikh religion by accepting initiation. While the turban (dastaar) is not technically one of the five articles of faith, Sikhs have continued the practice of wearing one to cover their unshorn hair for several centuries dating back to the times of the Sikh gurus, and it remains one of the most visibly distinctive features of Sikh practice. Both men and women may wear turbans, though in practice more men do so than women. Alternatively, some women cover their heads with a long scarf

called a chunni.

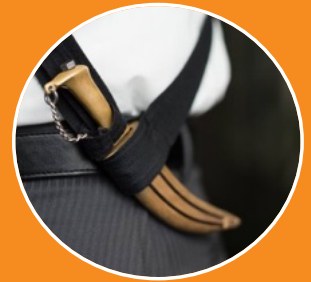
These articles of faith signify an individual's commitment to Sikhism and to the highest ideals of love and service to humanity. They serve as an external uniform that unifies Sikhs and binds them to the beliefs of the religion, and they are a daily reminder that Sikhs must live an honest, moral, kind, brave, and loving life. It is also important to recognize that historically, denying Sikhs the right to maintain their articles of faith was a means to persecute and forcibly convert Sikhs from their religion. As resistance to such forced conversions, many Sikhs chose death or imprisonment over sacrificing their articles of faith. Since then, denying a Sikh the right to wear a turban and maintain their unshorn hair has symbolized denying that person the right to belong to the Sikh faith and is perceived as the most humiliating and hurtful injury that can be inflicted upon a Sikh. Indeed, for a Sikh, forced removal of the turban or other articles of faith is tantamount to a strip search.

Like members of all religious communities, Sikhs also practice their faith on a spectrum. Followers may interpret, express, and identify with their traditions in various ways, and because faith is largely personal, one may hear different answers from different Sikhs about the significance of their articles of faith. For example, there are many Sikhs who do not wear all five articles of faith, including uncut hair and turbans. This does not make these individuals any less Sikh or their practice any less significant, nor does it disqualify believers from calling themselves Sikhs. The articles of faith are required, however, for those who have accepted formal initiation (in other words, have participated in the amrit sanskar ceremony akin to a baptism for other faiths), or otherwise observe the tenets of Sikhism as dictated by their religious conscience.

SIKH ARTICLES OF FAITH



KANGA
small comb



KIRPAN
religious article
resembling a knife



KACHERA
soldier-shorts
(resembling knee-length shorts)



KARA
steel or iron bracelet



KESH
unshorn hair

A turban is a long piece of cloth tied over uncut hair that signifies equality and sovereignty.



U.S. LEGAL PROTECTIONS FOR RELIGIOUS MINORITIES

Creating a diverse, equitable, and inclusive workplace requires employers to properly understand their legal requirement to maintain a workplace free from discrimination. This in turn requires a basic understanding of the religious rights of employees.

The United States has a long-standing tradition of protecting religious freedom, including the rights of those practicing minority faiths. The religious practices of Sikh and other employees are protected by Title VII of the Civil Rights Act of 1964 (Title VII); in addition, public employers may be subject to the First Amendment and the Religious Freedom Restoration Act (RFRA).¹ Many states also have corollaries to these federal laws which protect employees and applicants from religion-

based discrimination at the state level.

Title VII generally prohibits employers from discriminating against employees and applicants on the basis of their race, color, religion, sex (including pregnancy, transgender status, and sexual orientation), or national origin.² Thus, employers may not refuse to hire; terminate employment; discriminate with respect to compensation, employment terms and conditions, or employment privileges; or limit, segregate, or classify employees or applicants for employment in any way that would deprive an individual of employment opportunities based on these protected categories.³ Most states (and some cities) have analogous anti-employment discrimination laws; the scope of their protections vary greatly, and some



are stronger than Title VII.⁴ While Title VII applies to employers with 15 or more employees (including part-time and temporary workers), analogous state laws often include smaller employers (and, in some cases, may protect independent contractors, interns, etc.).⁵ Thus, all employers—regardless of their size or where they are located—should be aware of their responsibilities under the law.

Public employers should understand that they may be subject to the federal and state constitutions, and federal and state versions of RFRA. The First Amendment of the U.S. Constitution protects the free exercise of religion.⁶ In other words, governments may not take actions that restrict religious freedom (absent certain limitations). In addition, many state constitutions include protections for religion that may be interpreted differently from, or may provide stronger protections than, the federal First Amendment. In the employment context, federal and state constitutional protections may apply to religious minorities employed by or contracted to work with state and local governments.⁷

Under RFRA,⁸ the federal government cannot substantially burden an individual's exercise of religion even if the burden results from a rule of general applicability unless it demonstrates that the burden to the person "(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest."⁹ This means that the government must have a very compelling reason to limit or violate an individual's religious freedom, and that any violation must be as minimally oppressive or intrusive as possible. In this way, the law greatly limits the federal government from infringing upon an individual's religious rights. While the federal RFRA generally applies only to non-employee claimants against the federal government, many states have enacted similar statutory provisions through state RFRAs or other protection within their constitutions to govern the actions of state and local employers towards their employees and contract workers.¹⁰

RELIGIOUS PRACTICE, ACCOMMODATIONS, AND THE LAW

Aside from prohibiting intentional discrimination against religious minorities in the workplace (e.g., refusing to hire a Sikh because they are Sikh), Title VII explicitly protects employees' religious practices.

It requires that employers provide "reasonable accommodation" of their employees' sincerely held religious beliefs, observances, and practices when they conflict with a workplace requirement unless doing so would impose an "undue hardship."¹¹ An accommodation is normally considered "reasonable" if it eliminates the conflict between the workplace requirement and the employee's religious belief without unnecessarily disadvantaging the employee's terms, conditions, or privileges of employment.¹² Under Title VII, "undue hardship" is defined as more than a *de minimis* cost or burden on the employer and is reviewed on a fact and context-specific basis.¹³ Note that the definition of *de minimis* may vary based on the context, and some analogous state laws define "undue hardship" to provide greater protection.¹⁴ Upon learning of the need for religious accommodation, employers and employees should engage in a cooperative and open dialogue in an attempt to find a mutually acceptable solution.¹⁵

It is important to note that adherents of Sikhi, similar to adherents of other faiths, do not all practice their faith in the same way. Importantly, opting not to adopt a particular religious practice does not affect

one's belonging to the faith. For instance, not all Christians attend worship services every Sunday, and not all Jewish men wear a yarmulke. Similarly, the religious practices of individual Sikhs may vary, with some choosing to maintain all of the Sikh articles of faith (see Sikhism and the Articles of Faith), others choosing to maintain some, and still others choosing none at all.

When dealing with a request for a religious accommodation (e.g., a request to wear a religious head covering or maintain facial hair), an employer cannot apply a "one size fits all" approach. Rather, the employer must consider each *individual's* specific practice based upon their sincerely held religious beliefs. U.S. law protects religious beliefs on an individualized basis, regardless of the level of observance a person adheres to.¹⁶ Accordingly, it is important to recognize that individuals who have recently adopted Sikhi or are changing their religious practice are all equally protected under the law and may not be discriminated against because their faith or observance has changed.



DISCRIMINATORY HARASSMENT AND HOSTILE WORK ENVIRONMENT

According to a survey conducted by the Tanenbaum Center for Interreligious Understanding in 2013, approximately one-third of respondents either experienced or witnessed religious bias in the workplace.¹⁷

Likewise, the U.S. Equal Employment Opportunity Commission (EEOC) has indicated that the number of religion-based discrimination complaints filed with the agency “increased significantly” from 1997 to 2019.¹⁸

Adherents of minority faiths—particularly those who wear religious head coverings or whose appearance reflects their religious identity—are particularly vulnerable to workplace harassment. Because others in the workplace may be unfamiliar with the appearance and traditions of these faiths, it is essential that all employees understand what constitutes discriminatory behavior so that employers can prevent problems before they occur.

Harassment is a form of employment discrimination that violates Title VII. Harassment consists of “unwelcome conduct” that is based on a protected class such as race, color, religion or sex.¹⁹ This type of behavior is unlawful where (1) enduring the offensive conduct becomes a condition of continued employment or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.²⁰

Examples of unwelcome conduct include offensive jokes, slurs, epithets or name calling; physical assaults or threats; intimidation, ridicule or mockery; insults or put-downs; offensive objects or pictures; and interference with work performance.²¹ These types of behaviors may create a hostile work environment,

leading to possible liability on the part of the employer. Therefore, it is important to ensure that employees (including those in supervisory roles) understand what types of behaviors are inappropriate. Additionally, supervisors must understand their role in responding to complaints of discriminatory conduct, including taking the necessary steps to prevent future acts of harassment.

In addition, it is important to understand the intersectional nature of discrimination and harassment toward Sikhs. This means that Sikhs are often harassed because of bias towards a combination of their protected classes—their religion, race, ethnicity, national origin, sex, age, or other factors. For example, a Sikh from India could be harassed because of bias towards the totality of his turban, beard, brown skin, and accent.

It is also important to note that retaliating against an employee for requesting an accommodation, filing a discrimination complaint or for participating in a discrimination investigation, proceeding, or lawsuit either as the targeted employee or as a witness is also unlawful.²²



RELIGIOUS ACCOMMODATIONS BY TOPIC

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RELIGIOUS ACCOMMODATION: CORPORATE APPEARANCE STANDARDS

In some instances, neutral corporate appearance and grooming policies based upon Western cultural values associated with grooming and professional image require employees to cut their hair short, shave their beards (or maintain short, trimmed beards), or prohibit headwear in the workplace. These policies may interfere with the religious practices of Sikhs who maintain their articles of faith. Other times, employers mandate certain appearance standards based upon perceived “customer preference”—again relying on Western notions of grooming and appearance. As a result, some employers have failed to hire Sikhs or have attempted to “accommodate” them by steering them into positions that require little or no contact with clients or customer contact. These employers are segregating Sikhs because of their religious identity and articles of faith.

Segregation is never an acceptable religious accommodation to uniform and grooming conflicts.²³ In these circumstances, employers should provide religious accommodations to Sikh employees, because nothing about their articles of faith prevents them from actually doing their jobs. Employers should never preclude Sikhs from working in customer service, sales, or other positions that require interaction with customers and clients, even if a customer does not want to work with a Sikh employee for their own bias-based reasons. Employers who attempt to segregate Sikh employees may violate federal and state employment discrimination law because they face no undue hardship to provide Sikhs accommodations to their uniform and grooming policies under these circumstances.



It must be noted that Sikhs now serve in several branches of the U.S. military (as well as in law enforcement agencies around the country) while maintaining their unshorn hair, beards and turbans in a “neat and conservative” manner consistent with applicable uniform and grooming standards. The military and local law enforcement agencies have modernized their appearance standards and provided religious accommodations to comply with the law, as well as to promote diversity within their ranks and in recognition of the need to recruit from a broader talent pool with diverse skill sets. Similarly, private employers should provide appropriate religious accommodations to attract talent; aside from fulfilling their legal obligations, they will advance their goals of creating a diverse and inclusive workforce, and signal to customers and clients their willingness to do business with people of all backgrounds.

RELIGIOUS ACCOMMODATION: UNSHORN HAIR & BEARDS

Sikhs who keep kesh maintain their hair (including facial and body hair) unshorn because it is a divine gift; keeping it in a natural state is regarded as living in harmony with the will of God. Sikh men (and some women) generally twist their long hair into a bun and wear it beneath a turban. Some Sikh men wear their beards open and flowing; others tie it up beneath their chins with the aid of gels, hair pins, or beard nets.

Maintaining hair and beards unshorn rarely poses problems for Sikhs in the workplace. Sometimes, employers have hygiene, health or safety concerns, but mutually acceptable solutions allowing for religious accommodation usually exist. For example:



- Some Sikhs in the foodservice industry are subject to “no beard” policies. While state and local laws vary, hygiene concerns can simply be addressed with the use of beard nets or beard covers.
- Hair follicle drug testing is becoming widespread across a variety of industries, including transportation. This testing requires the removal of a lock of hair close to the follicle. Employers may simply accommodate Sikh employees by accepting alternate forms of drug testing such as urinalysis or oral fluids, as consistent with federal regulations.
- Some employers have asked Sikhs to trim or shave their beards in order to use N-95 respirators or gas masks. Workplace safety regulations require employers to provide the personal protective equipment (PPE) which is appropriate based on an individual employee’s needs, and should provide PPE that can meet both the safety and religious requirements of bearded Sikh employees.²⁴ For example, federal regulations permit the use of loose-fitting PPE, such as Powered Air Purifying Respirators (PAPRs), by workers with facial hair in the majority of situations where respirators are required.²⁵ In addition, note that bearded employees have been able to successfully wear N95’s with use of a beard band.²⁶ Technology is rapidly advancing in this area, and employers should do their due diligence to find appropriate protective gear.

It must be noted that Sikhi provides no “dispensation” (exemption) in instances where Sikh religious practices conflict with health or safety requirements. An employer’s action in requiring its employee to obtain a dispensation would not qualify as a religious accommodation under employment discrimination law because the workplace conflict would not be eliminated.²⁷

RELIGIOUS ACCOMMODATION: TURBANS & RELIGIOUS HEADWEAR

For a Sikh, wearing a turban declares sovereignty, dedication, self-respect, courage and piety. Sikhs consider the turban to be a divine gift, and many wash their hands before they begin to tie it. As mentioned above, both Sikh men and some women may wear turbans. Some women, however, choose to wear a long scarf called a chunni over their heads and shoulders instead.

Wearing religious headwear rarely poses a problem in the workplace. Sometimes, questions arise as to whether a person is able to wear protective gear, such as a hard hat, with a turban. Prior to mandating that a turban-wearing Sikh employee wear a hard hat, an employer should first evaluate whether such a requirement is indeed necessary; in other words, confirm that an actual threat or safety hazard exists in the workplace and is not perceived or speculative. If such a threat actually exists, the employer should communicate with the individual employee as to whether they feel comfortable wearing a helmet over or in place of their turban. Different Sikhs have different beliefs in this regard, and the faith leaves such decisions to an individual's religious practice. It must be noted that Occupational Safety and Health Administration (OSHA) specifically "exempts from citation" employers who waive hard hat requirements for employees for religious reasons. Thus, in this case the federal government does not require an employer to accommodate a person who wears religious headwear—instead, it simply will refrain from citing the employer for failing to comply with federal hard hat regulations if the employer provides a religion-based accommodation.²⁸



RELIGIOUS ACCOMMODATION: KIRPAN

A kirpan is an article of faith that resembles a knife or sword. The kirpan obligates a Sikh to the ideals of generosity, compassion, and service to humanity. It acts as a reminder to its bearer of a Sikh's solemn duty to protect the weak and promote justice for all.²⁹ The kirpan also plays an important role in Sikh practices; kirpans are used prominently in ceremonies marking major life events, including religious initiation (amrit sanskar), marriage (anand karaj), and death (antim sanskar). In congregational settings, a kirpan is touched to parshad (blessed sweet pudding) to indicate the grace of the Guru before it is distributed for consumption.

Kirpans are carried by Amritdhari (initiated) Sikhs at all times, but may also be worn by non-Amritdhari Sikhs. There is no prescribed length or sharpness for a kirpan in Sikhism; these factors are determined by the individual religious convictions of the wearer. Kirpans are typically sheathed and worn with a gatra (strap). Some Sikhs wear kirpans under their clothing; others wear them over their clothing.

Employers often have "no weapons" policies that prohibit employees from bringing weapons to the workplace. As a result, employers sometimes prohibit observant Sikhs from wearing kirpans in the workplace. However, kirpans are articles of faith and worn with a benign intent to comply with the tenets of one's faith and should not be viewed as weapons or objects causing harm.³⁰ Governments, employers, and even public schools around the country routinely provide religious accommodations for Sikhs to wear kirpans.³¹ Moreover, in most workplaces employees already have access to a number of secular objects that are often longer, sharper, or more dangerous than many sheathed kirpans. These include pens, kitchen knives, scissors, box cutters, letter openers, scalpels and other tools of trade.

Employers' accommodations of kirpan-wearing Sikhs in this regard are consistent with the criminal justice system's perspective as well. On the rare occasions Sikhs have been mistakenly arrested and charged under anti-weapons statutes for carrying kirpans, criminal charges for carrying the kirpan are consistently dropped by prosecutors or dismissed by judges because of the kirpan's religious nature and Sikhs' benign intent in wearing them.³² Courts and prosecutors consistently refuse to apply anti-weapons statutes to kirpans even when the "bladed" sections of Sikhs' kirpans are longer than allowed by anti-knife laws.³³



RELIGIOUS ACCOMMODATION: KARA

The kara is a steel (or iron) bangle that Sikhs normally wear on their dominant wrists. It is worn to remind Sikhs of their religious obligation to engage in ethical conduct and lead moral lives.

Employers in the food service industry sometimes object to employees wearing karas due to hygiene concerns. However, food service policies often include exemptions for medical ID bracelets or necklaces and wedding rings. Karas should likewise be accommodated. If individualized hygiene concerns exist, then some Sikh employees may be open to covering their karas depending on their individual religious practice.

Similarly, employers with laboratories that require sterile conditions sometimes maintain “no jewelry” policies for employees but have made accommodations for Sikh employees to wear long sleeved sterile gowns over their karas. Note that while some Sikhs may be willing to cover their karas if requested by an employer, others may believe that doing so violates their religious beliefs and it is incumbent on the employer to understand their employee’s specific practice.



RELIGIOUS ACCOMMODATION: DAILY PRAYER

Sikhs spend a significant amount of time in meditative contemplation; prayer and meditation are cornerstones of Sikhi and key practices that Sikhs employ in striving to become closer to Waheguru (God). Sikhs customarily pray three times during the day: early in the morning, in the evening, and again before sleep. Note that Sikhs cover their head with a turban or scarf and remove their shoes when they pray.

Sikhs may request religious accommodation for time to pray while working. Employers are often able to provide accommodations to meet these requests through flexible scheduling, voluntary substitutions, break swaps, and other such means.



RELIGIOUS ACCOMMODATION: VACCINE MANDATES

The COVID-19 pandemic has forced many employers to implement vaccine mandates for the maintenance of a safe workplace environment. As is the case with many different faith traditions, some Sikhs may seek exemptions from various vaccinations on the basis of their individual religious beliefs and practice. Thus, Sikh employees, like any others concerned about vaccinations, may request religious accommodations to employer vaccine mandates. As a first step, Sikh employees must notify their employer that there is a conflict between their sincerely held religious belief and practice, and the employer's vaccine requirement. In the event an employer has an objective basis to question the employee's religious belief, they may make a limited factual inquiry into the basis of the employee's sincerity.

It is important to note that Title VII does not require employers to accommodate employees who seek exceptions to COVID-19 vaccination requirements based upon social, political, or economic views or personal preferences. However, Title VII does require

employers to provide accommodations to employees' sincerely held religious beliefs and practices absent undue hardship. Whether providing the accommodation would be an undue hardship on an employer depends on the specific situation; relevant factors may include the nature of the work, type of workplace, the employee's proximity to other employees or customers, the number of other employees seeking similar accommodations, and availability of alternatives to requiring the vaccine such as routine testing.

DIET AND ALCOHOL RESTRICTIONS & CONSIDERATIONS

Sikhi prohibits the eating of any meat that has been ritually slaughtered (e.g. kosher or halal meats).³⁴ However, there are wide variations in how individual adherents interpret this. Depending on their personal beliefs, some Sikhs will extend this rule to cover all meat and meat products, and even eggs, fish, and dairy; others will eat any meat as long as it has not been ritually slaughtered.

In addition, Sikhi prohibits consumption of anything that is believed to do either temporary or permanent damage to one's body. In Sikhism, the ultimate goal is to discover the divine spark within one's self. Because the physical body is the container for this divinity, Sikhs are prohibited from harming their bodies with intoxicants. Thus, prohibitions include tobacco, alcohol, and all narcotic or intoxicating drugs. Accordingly, some Sikhs may feel uncomfortable attending work events in which alcohol is consumed, particularly if alcohol is the main feature of the event (e.g. after work happy hours). When dealing with questions of diet or alcohol, it is imperative that Sikhs and others are not singled out, excluded, or made to feel like outsiders because of their religious beliefs.

When planning workplace events, be considerate of the diversity of beliefs and practices of all employees.

Consider alternatives to events that include alcohol and consider employees' dietary restrictions when planning such activities. For example, if a workplace event will serve food and/or alcohol, it is important to make sure that there are adequate non-alcoholic beverages and vegetarian meal options to accommodate the diverse group of personnel attending the event so that everyone feels welcome and included. In addition, employers should consider other types of events, such as potluck meals, sporting activities, and other ways in which staff members can enjoy time together and team building without isolating individuals who may be uncomfortable around alcohol or unable to eat certain types of foods.



RECOMMENDATIONS FOR POLICIES & EXAMPLES OF BEST PRACTICES

In order to provide for a culturally and legally competent and inclusive workplace, it is important for employers to consistently and proactively review their policies for inherent bias and cultural sensitivity.

For example, employers should review their employee hiring, pay, and promotional structures to ensure that wages are merit and experience-based, and do not disproportionately favor one (or more) protected class(es). Additionally, by educating themselves and providing cultural competence for their staff, employers foster an environment which more seamlessly addresses their Sikh

and other minority employee's needs pertaining to religious accommodations, and takes diversity of perspectives into account when establishing policies and paths for advancement. Employers who establish mentorship programs, annual reviews with clear communication about expectations, and professional development opportunities are often some of the most desirable workplaces for employees of all backgrounds.

Employers should also take time to review their policies with an eye towards how they would handle requests for religious accommodations in situations like the following case studies.

EXAMPLE

RELIGIOUS HEADWEAR ACCOMMODATION



Kevin Jones is a Caucasian sales clerk who works in retail. After studying Sikhi, he adopts the Sikh faith and begins maintaining his hair and beard unshorn and wearing a turban. Upon seeing Kevin, his supervisor informs him that he is violating his employer's "no hats"

policy; she says this policy exists to project a professional image to customers. Kevin explains the tenets of his adopted faith and that his turban and hair are articles of that faith.

In an initial effort to accommodate him, the supervisor tells Kevin that because he cannot remove his turban, she can transfer him to a warehouse position which does not have a "no hats" policy because customers are not present. However, Kevin's employer would face no undue hardship in providing an accommodation to allow him to wear his turban in his sales clerk position; in addition, a transfer would change the terms and conditions of Kevin's employment, and result in segregating Kevin based upon his religious practice. If the employer took such action—irrespective of whether customers have negative views towards his headwear and irrespective of whether Kevin's salary changed--it would likely violate employment discrimination law. After further discussions between the supervisor and the human resources department, the company provides a religious accommodation for Kevin to wear his turban and remain in his sales clerk position.

EXAMPLE

RELIGIOUS HEADWEAR AND JEWELRY ACCOMMODATION



Jairaj Singh is a Sikh who maintains his hair and beard unshorn, and wears a turban and kara. Jairaj interviews for and is offered a job as a prep cook at a diner. The manager shares that the company's food handling, hygiene, and uniform policies mandate that employees who handle food wear a company-issued and restaurant logo'd shirt, black hat with the restaurant logo so that hair will not fall into the food, nets over their beards, and no jewelry with the exceptions of a medical alert necklace and plain wedding band. Jairaj requests religious accommodations to wear

a black turban in place of the company hat and to wear his kara. He is also willing to wear long sleeves over or otherwise cover his Kara. (Note that not all Sikhs are comfortable covering their religiously-mandated karas.)

It would not impose an undue hardship on the diner to accommodate Jairaj by allowing him to wear a plain black turban in place of the company hat because, consistent with the hygiene policies, his hair will still be covered. Nor would the diner be subject to undue hardship by accommodating Jairaj's wear of his kara given that it provides secular exemptions to its "no jewelry" policy. If individualized hygiene concerns remain then, if necessary, Jairaj is willing to cover his kara. The diner provides Jairaj with his requested religious accommodations.

EXAMPLE

WORKPLACE HARASSMENT



Satpal Randhawa is a Sikh of South Asian descent and maintains his hair and beard unshorn, wears a turban, and has an accent. He is hired as a technical writer at an electronics company. When his new co-workers meet him, they “jokingly” ask if he is a terrorist and whether he

has a bomb under his turban. Satpal mentions to his supervisor that these comments made him feel uncomfortable.

Satpal’s supervisor understands that an employer may be liable under employment discrimination law if one employee subjects another to unwelcome harassment based upon their religion, race, and/or national origin, or creates an intimidating, hostile, or offensive work environment. Additionally, Satpal’s supervisor wants to ensure an inclusive work environment in which employees of all backgrounds are able to thrive. Therefore, the supervisor consults with the company’s human resources department and the company takes immediate action to ensure that no employees make further derogatory or harassing comments to Satpal because of his national origin, religious and racial appearance, or his accent. After conducting a full investigation, the company counsels and disciplines the individual employees, and institutes diversity and inclusion training for all employees to ensure a safe workplace moving forward.

EXAMPLE

KIRPAN ACCOMMODATION



Amrita Kaur is a Sikh nurse who wears a kirpan. Her kirpan's blade is six inches long. She wears it sheathed, strapped to her torso, and out of view beneath her clothing. Amrita's employer, a hospital, has a zero-tolerance policy forbidding weapons of

any kind in the workplace. When Amrita's supervisor learns that she wears a kirpan, he immediately sends her home, suspends her for a week without pay (consistent with the company's discipline policy), and instructs her not to wear it at work because of their "no-weapons policy." He warns her that failure to comply with the policy could lead to her termination.

Amrita asks the hospital to rescind her suspension, reinstate her pay, and requests a religious accommodation to the no-weapons policy to wear her kirpan to work. She explains that her kirpan is an article of faith and she wears it with the benign intent to comply with the tenets of her religion. In addition, she points out that employees at her workplace are given access to other bladed secular objects that are as, if not more, objectively dangerous than her kirpan, including scissors, letter openers, surgical tools, box cutters, knives in the staff lounge and kitchen, and other items. Under these circumstances, the hospital would not incur undue hardship in providing Amrita with a religious accommodation to wear her kirpan to work. Accordingly, the hospital rescinds Amrita's suspension, reinstates her pay, and grants her religious accommodation request to wear her kirpan sheathed, strapped to her torso, and out of view beneath her clothing.

EXAMPLE

FACIAL HAIR ACCOMMODATION



Harpreet Singh is a Sikh who maintains his unshorn hair, including facial hair, wears a turban, and works as an emergency room physician at a local hospital. Harpreet's hospital is the busiest in the city and treats COVID-19 patients. Harpreet's employer issues a policy requiring all employees with beards to shave them in order to pass an N-95 respirator fit test or risk termination. Harpreet contacts the human resources department to request both a religious accommodation to not shave and alternative personal protective equipment (PPE) to the N-95 respirator.

Harpreet is able to provide resources explaining his faith and his religious requirement to maintain his beard. The human resources department recognizes that providing Harpreet with alternative PPE is not an undue hardship, gives Harpreet the accommodation, and provides him with a Powered Air Purifying Respirator (PAPR) moving forward when necessary.



SIGNIFICANT DAYS FOR SIKHS

As with many faith traditions, Sikhi maintains its own calendar system, called the Nanakshahi calendar. The Nanakshahi calendar begins with the birth of its founder, Guru Nanak, in 1469. Some dates change every year, and a few remain fixed. Additionally, each gurdwara, or Sikh house of worship, plans the celebrations and commemorations according to their respective congregation's schedules.

While this list is meant to provide guidance to employers, it is by no means exhaustive of all significant dates for the Sikh community. As religious practice varies between individuals, requests for time off around significant religious holidays should be accommodated to the extent possible regardless of whether the given celebration is listed here.

Gurpurab of Guru Gobind Singh—falls in January of each year

Guru Gobind Singh, the tenth and final Sikh Guru, created the Khalsa which is the collective body of initiated Sikhs. He declared the Guru Granth Sahib, the Sikh holy scripture, to be the Sikhs' Guru from that time on.

Hola Mohalla—falls in March of each year

The tradition of Hola Mohalla dates back to the times of the Gurus and served as an occasion for Sikhs to share the physical side of their saint-soldier practice.

Vaisakhi—falls on April 13 or 14 of each year

Vaisakhi is the most significant of the annual Sikh holidays. Historically, this occasion marking the spring harvest in Punjab was celebrated with an immense festival. In 1699, Vaisakhi came to serve a particular purpose when Guru Gobind Singh gathered the Sikh community and formalized the Khalsa.

Martyrdom anniversary of Guru Arjan—falls on June 16 of each year

The fifth Guru, Guru Arjan, built the Golden Temple in Amritsar to emphasize that the Sikh way was open to all regardless of caste. Guru Arjan is remembered as the first Sikh martyr and for his contributions to and compilation of the Sikh scriptures.

Gurgaddi of Guru Granth Sahib–falls on October 20 of each year

The eternal Guru for the Sikhs is Guru Granth Sahib, the Sikh holy scripture. All Sikhs bow before the Guru signifying their humility and asking for the blessings of the Divine Creator to grant them with Divine wisdom through the Guru.

Bandi Chor Divas–falls in October or November of each year

This celebration comes around the same time as the Hindu festival of Diwali. On this day, Sikhs gather to reflect on the values of freedom, justice, and standing up against oppression.

Martyrdom anniversary of Guru Tegh Bahadur–falls on November 24 of each year

This day commemorates the martyrdom of Guru Tegh Bahadur, the ninth of the ten Sikh Gurus. He is remembered for his defense of not only the Sikh faith, but also of other religions and of religious liberty in general.

Gurpurab of Guru Nanak–falls in November of each year

Born in 1469, Guru Nanak is the founder of Sikhi and the first Guru. For his whole life, he worked for the good of humanity. He was a gifted, far-sighted reformer who advocated on behalf of the oppressed by combatting the economic and political problems of his day. He conveyed his message of universal Oneness and equality to all.

Vaddey Sahibzaadey Martyrdom–falls on December 21 of each year

Baba Ajit Singh and Baba Jujhar Singh, the older sons of Guru Gobind Singh, died in battle in 1705 at the ages of 18 and 14 years old respectively. Their martyrdom and that of their two younger brothers is an integral part of Sikh history, and it is commemorated at the end of the year.

Chhotey Sahibzaadey Martyrdom–falls on December 26 of each year

Baba Zorawar Singh and Baba Fateh Singh, Guru Gobind Singh's youngest sons, were also martyred in 1705 at the ages of 6 and 9 years old respectively. Their lives serve as a reminder that age has no bearing in living a principled life.



GLOSSARY OF TERMS

Anand Karaj

the Sikh Wedding ceremony

Amritdhari

an individual who partakes in an amrit sanchar, through which they are formally initiated as a Sikh and becomes part of the Khalsa; all amritdhari Sikhs are required to keep the five articles of faith on or as part of their person at all times

Amrit Sanskar

initiation ceremony that allows Sikhs to become members of the Khalsa

Antim Sanskar

final ceremony that takes place at one's death where community gathers to pray, worship, and celebrate the life of the individual who passed; ceremony often accompanied by a complete reading of the Guru Granth Sahib—sometimes continuous and over a long time period

Articles of Faith (also Kakaar, “5 Ks”)

Sikhs display dedication to their religion by wearing five articles of faith which must be maintained on their person at all times to signify their outward commitment to living by Sikh principles of honor, justice, and love for humanity:

Kachera

shorts worn traditionally as an undergarment

Kanga

a small comb often placed within one's hair

Kara

a bracelet worn on one or both wrists

Kesh

uncut hair on the head, face, and body; hair on the head is covered with a turban (dastaar), with some women choosing to wear a scarf (chunni) instead. Kesh also includes all hair on the body (including facial hair).

Kirpan

an article of faith that resembles a knife or sword worn with a shoulder strap (gatra) on the body

Chunni

thin scarf worn by Sikh women to cover their heads

Equal Employment Opportunity Commission (EEOC)

a federal agency that is tasked with stopping and remediating workplace discrimination through the enforcement of anti-discrimination laws

First Amendment

the First Amendment of the U.S. Constitution protects the free exercise of religion

Gatra

a strap for a kirpan typically worn over the shoulder and across the torso, allowing the kirpan to be suspended at the waist

Golden Temple (also Harmandir Sahib)

the chief gurdwara, or house of worship, of Sikhism and the Sikhs' most important pilgrimage site

Gurdwara

Sikh house of worship and community center

Gurpurab

refers to the celebration of a date/ anniversary that is related to the lives of the Sikh Gurus (e.g., birth, death, martyrdom); on these occasions, Sikhs gather to reflect on the lives and teachings of the Gurus

Guru

literally translated to “teacher.” The Sikh Gurus were prophets who preached a new, revolutionary message to improve life on earth and to enable human beings to come closer to God; one after the other, the ten Gurus worked to spread and institutionalize the Sikh religion

Guru Granth Sahib

the Sikh holy scripture; a collection of revelations that offer direction on living an ethical life that bring Sikhs closer to God

Kaur

translates to warrior princess; collective last name given to all Sikh females by the tenth Guru, and often used as a last or middle name by Sikh women today

Khalsa

collective body of initiated Sikhs who are committed to serving society, defending the oppressed, and providing leadership for the larger Sikh community

Occupational Safety and Health Administration (OSHA)

federal agency that regulates health and safety within the workplace

Personal Protective Equipment (PPE)

N-95 respirators

respiratory protective device designed to achieve a very close facial fit with a seal around the mouth and nose; while very efficient at filtering airborne particles, this particular respirator may

cause issues for Sikhs who maintain their beards, as facial hair may interfere with the fit

Powered Air Purifying Respirators (PAPR) or Controlled Air Purifying Respirators (CAPR)

full coverage advanced respiratory protection system that does not require a tight seal and, thus, allows the user to maintain their facial hair

Religious Freedom Restoration Act (RFRA)

federal law (which has also been adapted in some form by many states) that makes it difficult for the government to infringe upon an individual’s religious rights

Sikhi (also known as Sikhism, the Sikh faith/religion)

monotheistic religion originating in the South Asian subcontinent, the core beliefs of which include remembering God at all times, serving humanity, advocating for equality and justice, and living an honest and moral life

Singh

translates to lion/tiger; collective last name given to all Sikh males by the tenth Guru, and often used as middle name by Sikh men or as a last name by Sikh men and women today

Title VII of the Civil Rights Act of 1964

federal law that prohibits employers from discriminating against individuals and employees on the basis of their race, color, religion, sex, or national origin

Turban

a type of headwear which, for Sikhs, is religiously significant and part of their articles of faith; consists of a long piece of cloth that is tightly wound and wrapped around its wearer’s head

ENDNOTES

¹ In addition to these federal statutes, it is important to note that Section 1981 of the Civil Rights Act of 1886 (42 U.S.C. § 1981) provides some protection to religious minorities in the workplace. Section 1981 broadly prohibits intentional discrimination on the basis of race, color and ethnicity in the making and enforcement of contracts, and applies by extension to employment and independent contractor relationships. While religious practice is not on its face protected under Section 1981, the statute has been interpreted to protect against intentional discrimination on the basis of religion where religion is a proxy for race or ethnicity. See, e.g., *Shaare Tefila Congregation v. Cobb*, 481 U.S. 615 (1987), *Lapine v. Edward Marshall Boehm, Inc.*, No. 89-cv-8420, 1990 WL 43572 (N.D. Ill. Mar. 28, 1990), *Bains LLC v. Arco Prods Co.*, 405 F.3d 764 (9th Cir. 2005).

² Additional federal statutes protect against discrimination on the basis of disability, age (over 40), genetic information, etc.

³ Title VII of the Civil Rights of 1964, 42 U.S.C. § 2000e-2(a)(1)-(2). Note that other federal, state and local statutes often protect different or additional classes from discrimination in the workplace.

⁴ See, e.g., California's Fair Employment and Housing Act, CA GOV § 12940; New York City's Human Rights Law, N.Y. Admin Code 8-101, et seq.; and the New Jersey Law Against Discrimination, N.J.S.A. 10 § 5-12, all of which provide greater protection for employees' religious practice than Title VII.

⁵ See, e.g., New York Human Rights Law, NY Exec. L. §296-d (amended L. 2019, c. 160. § 4, eff. Oct. 11, 2019); Maryland Fair Employment Practices Act, Md. Code Ann., State Gov't § 20-601(c) (LEXIS through 2021 Regular Session of the General Assembly).

⁶ "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." U.S. Const. Amend.I.

⁷ It is important to note that while the Title VII is the exclusive vehicle through which federal employees may bring employment discrimination claims against their federal government employer. See *Brown v. General Services Administration*, 425 U.S. 820, (1976) (holding federal contractors and state and local government employees may bring federal constitutional claims in relation to their treatment as religious minorities in the workplace).

⁸ 42 U.S. § 2000bb, et seq.

⁹ 42 U.S. § 2000bb-1(a)-(b).

¹⁰ See *Brown, supra.*, *Harrell v. Donahue*, 638 F.3d 975 (8th Cir. 2011)(Title VII is the exclusive remedy for employment discrimination claims for federal employees; RFRA claim cannot stand); *Francis v. Mineta*, 505 F.3d 266 (3rd Cir. 2007). Notwithstanding, federal contractors may successfully bring RFRA claims against the federal government, as well as federal employees towards non-employer federal agency policies that impact their employment. See, e.g., *Tagore v. United States*, 735 F.3d 324 (5th Cir. 2013).

¹¹ Title VII of the Civil Rights of 1964, 42 U.S.C. § 2000e(j).

¹² See e.g., *Ansonia Bd. of Educ. v. Philbrook*, 479 U.S. 60, 69 (1986).

¹³ *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 84 (1977); 42 U.S.C. § 2000e et seq; 29 CFR § 1605.2; see also U.S. Equal Employment Commission Compliance Manual on Religious Discrimination §12(IV)(B) (January 15, 2021), available at https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination#h_12929403436951610749878556.

¹⁴ See fn. 3.

¹⁵ See, e.g., *Thomas v. Nat'l Ass'n of Letter Carriers*, 225 F.3d 1149, 1155 n.5 (10th Cir. 2000) ("the [ADA] 'interactive process' rationale is equally applicable to the obligation to offer a reasonable accommodation to an individual whose religious beliefs conflict with an employment requirement"); cf. *Ansonia Bd. of Educ.*, *supra.*, 479 U.S. at 68-69. ("courts have noted that 'bilateral cooperation is appropriate in the search for an acceptable reconciliation of the needs of the employee's religion and the exigencies of the employer's business'" (quoting *Brener v. Diagnostic Ctr. Hosp.*, 671 F.2d 141, 145-46 (5th Cir. 1982))).

¹⁶ See, e.g., 29 C.F.R. § 1605.1 ("The fact that no religious group espouses such beliefs or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of the employee or prospective employee."); see also *Thomas v. Review Bd., Ind. Empl. Sec. Div.*, (1981) 450 U.S. 707, 715-716 ("[t]he guarantee of free exercise is not limited to beliefs which are shared by all of the members of a religious sect").

¹⁷ *Religious Discrimination in the Workplace*, Tanenbaum Center for Interreligious Understanding, p. 5 (July 5, 2013), <https://tanenbaum.org/wp-content/uploads/2014/02/Tanenbaums-2013-Survey-of-American-Workers-and-Religion.pdf>.

¹⁸ See *supra* EEOC Compliance Manual on Religious Discrimination §12 Overview.

¹⁹ *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57, 64-67 (1986); see also *Harassment*, U.S. Equal Employment Opportunity Commission, <https://www.eeoc.gov/harassment> (last visited March 25, 2022).

²⁰ *Id.*; see also, *Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 21 (1993).

²¹ *Harris*, 510 U.S. at 21-22.

²² 42 U.S.C. § 2000e-3.

²³ See *supra* EEOC Compliance Manual on Religious Discrimination §§12-1, 12-2(A)(1) Ex. 9(c).

²⁴ See, e.g., interpretation letter from Kimberly A. Stille, Acting Dir., Dir. of Enf. Prgms., OSHA to Amrith Kaur Aakre, Legal Dir., The Sikh Coalition (Dec. 16, 2021) available at <https://www.osha.gov/laws-regs/standardinterpretations/2021-12-16>.

²⁵ *Id.* available at <https://www.osha.gov/laws-regs/standardinterpretations/2021-12-16>.

²⁶ See e.g., Prince, Steven E et al., *Assessing the effect of beard hair lengths on face masks used as personal protective equipment during the COVID-19 pandemic*, J Expo Sci Environ Epidemiol. 31, 953-960 (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8130778/>.

²⁷ See 29 C.F.R. § 1605.1

²⁸ The exemption exists to ensure that OSHA policies comply with RFRA to the extent that they impact religious minorities. See OSHA Directive STD 01-06.005 §§G(4)-(6).

²⁹ The word “kirpan” comes from two Punjabi words: ‘Kirpa’ means an act of kindness, a favor; and ‘Aan’ means honor and self- respect.

³⁰ Large employers such as AT&T, Boeing, and the International Monetary Fund have provided kirpan accommodations to Sikhs. Also note that the U.S. Equal Employment Opportunity Commission has litigated and favorably settled at least two separate cases under Title VII of the Civil Rights Act of 1964 protecting the right of Sikhs to wear kirpans in the workplace. See *EEOC v. Heartland Employment Services, LLC d/b/a ManorCare Health Services-Citrus Heights*, Case No. 2:08-cv-00460-FCD-DAD (E.D. Cal. consent decree entered May 2010); *EEOC v. Healthcare and Retirement Corp. of America d/b/a Heartland Health Care Center - Canton*, Case No. 07-13670 (E.D. Mich. consent decree entered Dec. 2009).

³¹ In 2012, the U.S. Department of Homeland Security Federal Protective Service (FPS) instituted a kirpan accommodation policy that facilitates the entry of kirpan-wearing Sikhs into the 9,000+ federal buildings that FPS secures. See U.S. Department of Homeland Security Federal Protective Service Prohibited Items Program, Directive No. 15.9.3.1 (Dec. 10, 2012), available at <https://www.dhs.gov/sites/default/files/publications/foia/prohibited-items-program-nppd-fps-directive-15.9.3.1.pdf>. In addition, the White House, the Hart Senate Building, the Federal Bureau of Investigation, the U.S. Department of Justice, and the California State Capitol Building in Sacramento have all provided accommodations to kirpan-carrying Sikhs.

³² See e.g., *State of Ohio v. Harjinder Singh*, 690 N.E.2d 917, 920 (Ohio Ct. App. 1996) (reversing trial court criminal conviction because the Sikh defendant carried his kirpan as a religious article and not a mere weapon); *New York v. Partap Singh*, 516 N.Y.S.2d 412 (1987) (sua sponte dismissing weapons charge against kirpan-wearing Sikh).

³³ See e.g., *City of Detroit v. Sukhpreet Singh Garcha*, Slip op., No. Z-775606 (36th Dist. Ct., City of Detroit) (refusing to apply Detroit’s anti-weapons statute to Sikh student’s ten-inch kirpan).

³⁴ The prohibition on kosher meat stems from a larger belief that all food is pure and does not require priestly inspection or intervention; the prohibition on halal meat comes from the commandment that only meat from animals killed quickly with a single blow (jhatka meat) is acceptable. Since halal requires allowing the blood to drain slowly from the animal, animals killed in this way are unacceptable.